

# DPD/OH

## Director's Rule 26-2005

<b>Applicant:</b>  CITY OF SEATTLE Department of Planning and Development (DPD) Office of Housing (OH)	<b>Page</b>  1 of 5	<b>Supersedes:</b>  N/A
	<b>Publication:</b>  8/12/05	<b>Effective:</b>
<b>Subject:</b>  Housing Bonus for Additional Residential Floor Area in DOC 1, DOC 2, DMC 240/400, and DMC 340/400 zones	<b>Code and Section Reference:</b>  Seattle Municipal Code 23.49.015 Bonus Residential	
	<b>Type of Rule:</b>  Code Interpretation	
	<b>Ordinance Authority:</b>  SMC 3.06.040 and 3.14.740	
	<b>Approved</b>	<b>Date</b>
	Adrienne E. Quinn, Director, HO	
<b>Index:</b>  Land Use Code, Technical and Procedural Requirements	<b>Approved</b>	<b>Date</b>
	Diane M. Sugimura, Director, DPD	

### Background

SMC 23.49.015 allows developers of highrise residential towers in DOC-1, DOC-2, and DMC to achieve additional floor area when they provide or make a contribution to housing in Downtown that is affordable for lower-income households. Such housing mitigates a portion of the housing-related impacts of higher-density residential development, as quantified by a City-commissioned study, Residential Nexus Analysis City of Seattle prepared by Keyser Marston Associates, Inc.

Applicants may choose one or both of the following options for satisfying conditions to allowance of bonus residential floor area pursuant to SMC 23.49.015:

- (1) performance option—building affordable housing;
- (2) cash payment option—providing an in-lieu-of payment to the City to fund capital costs of developing affordable housing.

Both options are described in further detail below.

## **I. Performance Option**

This section provides minimum standards for any housing the applicant provides pursuant to a voluntary agreement in accordance with SMC 23.49.015 in order to mitigate impacts of additional gross residential floor area permitted as “bonus development” under that section.

### ***A. General Guidelines***

- **Amount of housing:** At least 6.0% of gross residential floor area permitted as a bonus must be reserved as rental or for-sale housing affordable to lower-wage individuals or families of lower-wage workers (“affordable housing”).
- **Income limits & affordability:** An annually updated table showing maximum incomes by percent of median income and household sizes and corresponding rent and sale limits is available from the Office of Housing (OH); please see Sections B and C below for more information on income limits and affordability. These tables are prepared primarily with data provided by the U.S. Department of Housing and Urban Development annually and are used for a variety of OH administered programs.
- **Term of affordability:** Units must remain affordable for 50 years from the date that a final certificate of occupancy is issued for such housing, or for so long as the market-rate housing remains, whichever is less;
- **Type of units:** Housing units provided to qualify for a bonus must include a range of unit sizes (e.g. studio, 1-bedroom, 2-bedroom, etc.) substantially proportional to the range of unit sizes of the total housing units in the project, except that affordable units may be smaller than market-rate units in terms of square footage.
- **Siting of units:** All affordable units must be situated on the same lot as the development for which bonus floor area is to be allowed pursuant to SMC 23.49.015, except that they may be located on lower floors; the availability of any amenities (e.g. open space, community rooms, athletic facilities) must be the same for market-rate and affordable unit residents.
- **Design, construction, and maintenance standards:** Affordable units shall be comparable in design and general appearance to market-rate units with durable materials used that will permit the affordable units to be available for 50 years; however, affordable units may have different interior finishes and features provided that such finishes and features are durable, of good quality and consistent with contemporary standards for new housing. Rental units must be maintained in the same manner as market rate units.

### ***B. Guidelines for Rental Units***

The guidelines outlined in this subsection apply to rental units provided to mitigate housing-related impacts pursuant to SMC 23.49.015.

- **Income limits:** Units must be rented to households whose total household income at time of initial occupancy is less than 80% of the median income, as defined in SMC 23.84..
- **Affordability:** The monthly rent, together with a reasonable allowance for any basic utilities paid by the household, may not exceed one-twelfth of 30% of 80% of median income, adjusted for unit size. Rent includes all amounts paid directly or indirectly for the use or occupancy of the residential unit and common areas of the housing development.

- **Annual report/monitoring:** The owner of the affordable housing must submit an annual report to OH in order to document compliance with voluntary agreements. The date when annual reports will be submitted will be included in the voluntary agreement, provided that the first report is submitted within one year of issuance of the final certificate of occupancy for the housing development. The report must include the following information for each affordable unit:
  - Unit #
  - Resident name
  - Move-in name
  - Income certification date(s)
  - Move-out date
  - Household size
  - Maximum annual household income (based on current income limits table)
  - Actual annual gross income as of initial occupancy and as of annual report date
  - Square footage
  - Number of bedrooms
  - Maximum allowed rent
  - Utility allowance
  - Resident rental payment
  - Monthly rent
- **Over-income tenants:** If, after moving into an affordable unit, a tenant's household income exceeds the limit for that unit, the tenant may remain in the unit as long as his or her household income does not exceed 140% of the income limit. Once the tenant's income exceeds 140% of the income limit, the tenant shall no longer be eligible for the affordable unit. The landlord may choose to designate another unit in the same building as a replacement affordable unit or provide notice to the tenant that they must vacate the unit prior to the next annual rent certification. Such terms must be included in the lease agreement for all affordable units.

**Fees:** An initial monitoring fee of \$500 will be assessed as a one-time charge to cover costs for developing the compliance monitoring plan, computer database program and reporting system for the project, and training sessions for owner/manager. An annual monitoring fee of \$65 per unit must be paid at time of submittal of each annual report.

### ***C. Guidelines for For-Sale Units***

All guidelines outlined in this subsection apply to for-sale units provided to mitigate housing-related impacts pursuant to SMC 23.49.015.

- **Income limits:** Units must be sold to households whose total household income at time of loan closing is less than 100% of the median income, as defined in SMC 23.84.
- **Affordability:** Maximum unit sales prices shall be established based on housing costs that do not exceed 33% of the HUD annual median household income, including mortgage principal and interests, taxes, insurance, HOA and assessments. Maximum unit sales price assumes 5% down payment and the prevailing 30-year fixed-rate interest rates.
- **Monitoring:** The eligibility of each prospective buyer and the sales price shall be demonstrated by the applicant to the satisfaction of OH. Applicants shall submit documentation acceptable to OH for a determination of buyer eligibility at least 10 working days prior to close of Escrow on each unit.

- **Tenure:** Units purchased by eligible households may not be rented unless OH is contacted in advance and determines an exception is necessary due to demonstrated hardship. Such determinations will be made on a case-by-case basis.
- **Resale restrictions:** The maximum sales price permitted on resale of units designated for owner-occupancy shall be the lower of: (1) fair market value or (2) the seller's lawful purchase price, increased by the lesser of (i) the rate of increase of median income during the seller's ownership or (ii) the rate at which the consumer price index increased during the seller's ownership. To the extent authorized in any resale restrictions or operative voluntary agreement, sellers may recover at time of sale the market value of capital improvements made by the seller and the seller's necessary and usual costs of sale, and may authorize an increase in the maximum allowable sales price to achieve such recovery.
- **Changes in title:** Title to a unit may change due to changes in circumstance, including death, marriage and divorce. Except as otherwise provided by this Subsection, if a change in title is occasioned by an event that changes the financial situation of the household so that it is no longer income-eligible, then the property must be sold to an income-eligible household within 180 days. Upon the death of one of the owners, title in the property may transfer to the surviving joint tenant without respect to the income-eligibility of the household. Upon the death of a sole owner or all owners and inheritance of the unit by a non-income-eligible child or stepchild of one or more owners, there will be a one year compassion period between the time when the estate is settled and the time when the property must be sold to an income-eligible household. Inheritance of a unit by any other person whose household is not income-eligible shall require resale of the unit to an income eligible household as soon as is feasible but not more than 180 days.

#### ***D. Voluntary Agreement***

No permit for any construction activity other than excavation and shoring may be issued until a voluntary agreement is signed by the applicant and accepted in writing by the OH Director. Such agreement must contain all of the relevant terms as outlined above, in addition to the following information:

- Basic project details (zone; gross floor area by use; # residential units, building height; DPD project number);
- The number, size (# bedrooms), location, affordability, and rental vs. for-sale for units to be provided to mitigate housing-related impacts pursuant to SMC 23.49.015;
- Nature and amount of any local public funding or other incentives provided by the City (if any); and
- Provisions and/or documents for resale restrictions, deeds of trust, rights of first refusal or rental restrictions.

## **II. Cash Payment Option**

- **Payment amount:** The voluntary agreement may provide for the applicant, in lieu of constructing affordable housing, to make a cash contribution of \$10.00 per square foot of bonus residential floor area. The OH Director may adjust the cash contribution amount, no more frequently than annually, in accordance with SMC 23.49.015C.1.
- **Voluntary agreement:** The voluntary agreement for the cash contribution shall be in the form of a letter signed by the applicant or the owner of the site of the proposed highrise residential tower. The letter shall include the following information:

- Statement that the purpose of the voluntary agreement to provide the cash contribution is mitigation of a portion of the housing-related impacts of the new residential highrise development (i.e. the increased need for affordable housing downtown to house the families of workers having lower-paid jobs that serve residents of such highrise towers).
- Basic project details (zone; gross floor area by use; # residential units, building height; DPD project number)
- Contact information for DPD planner and developer representative
- Bonus residential floor area allowed in accordance with SMC 23.49.015 and total cash contribution to be made
- Estimated project schedule (including dates for issuance of MUP and building permits)

The letter is due in advance of payment of the cash contribution and must be countersigned by the OH Director and the DPD Planner assigned to the project. Copies will be transmitted to the developer and DPD.

- **Timing of payment:** The cash contribution must be made in the form of a check payable to the "City of Seattle" and delivered to OH at Seattle Municipal Tower, 700 5<sup>th</sup> Avenue, Suite 5700 or mailed to P.O. Box 94725, Seattle 98124-4725. No permit for any construction activity other than excavation and shoring may be issued until the cash payment has been made.
- **Use of funds:** OH will deposit such payments in a special account established solely to fund the capital costs of developing housing for which the payments are made as set forth in SMC 23.49.015. Funds generally will be awarded through OH's Multifamily and/or Homebuyer Notice of Funding Availability (NOFA) processes to housing developers for construction of housing in Downtown that is affordable to families of lower-wage workers. Up to 5% of cash contributions pursuant to voluntary agreements for bonus floor area may be used by OH for administration of the Residential Housing Bonus Program.
- **Land dedication:** In lieu of doing the cash payment option, the applicant may choose to dedicate land to the City, pursuant to acceptance by ordinance, or to a nonprofit housing developer approved by OH, provided that OH reasonably determines such land suitable for the construction of affordable units and of equivalent or greater value than the total cash contribution that would be made based on the City's current per square foot fee-in-lieu amount as described in this subsection.